

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

VIOLET CROWN CINEMAS, LLC,

Plaintiff,

v.

**INTERNATIONAL DEVELOPMENT
MANAGEMENT, LLC,**

Defendant.

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CASE NO. 1:21-cv-1142

PLAINTIFF’S ORIGINAL COMPLAINT

Plaintiff Violet Crown Cinemas, LLC (“Violet Crown”) files its Original Complaint against International Development Management, LLC (“IDM”), and states:

I. INTRODUCTION

1. More than a decade ago, Violet Crown opened the Violet Crown theater in Austin Texas (“Violet Crown Austin”). Since that time, Violet Crown Austin has become one of Austin’s premiere entertainment venues.



2. While Violet Crown Austin primarily exhibits motion pictures, it also occasionally hosts live entertainment. It also provides comprehensive restaurant and bar services as well. Since opening its first location in Austin, Violet Crown has expanded its locations to Santa Fe, New Mexico and Charlottesville, North Carolina with a venue due to open in Dallas, Texas in 2022.

3. Violet Crown is the owner of several U.S. registered trademarks including U.S. Registration No. 5691295, 4979206 and 4795304 for VIOLET CROWN in connection with movie theaters, production and distribution of motion pictures and bar and restaurant services, respectively, and U.S. Registration No. 4367376 for VIOLET CROWN CINEMAS in connection with movie theaters (collectively, the “VIOLET CROWN Marks”).¹

4. IDM has announced plans to open a 20,000 seat amphitheater in the Austin area near Bee Cave. IDM is calling its new development the “VIOLET CROWN AMPHITEATER.” Precise details of the proposed amphitheater project are unknown other than it will host live music. It will presumably also offer bar and restaurant services. IDM is currently using the following logo to promote its development:



¹ True and correct copies of the registration certificates for the VIOLET CROWN MARKS are attached hereto as Exhibits A-D.

5. IDM has also generated a substantial amount of press coverage related to its proposed project, not all of which has been positive. For instance, the Austin Business Journal reported, on November 30, 2021, that development of the VIOLET CROWN AMPHITHEATER raises serious environmental concerns. Local musicians have also expressed opposition due to the proposed venues size as it will not promote local musical artists, promoting large concerts instead. Finally, the Austin Business Journal has also reported that the founder of IDM, the developer of the VIOLET CROWN AMPHITHEATER, pleaded guilty to a charge of indecent exposure.

6. Because of the obvious similarity between VIOLET CROWN AMPHITHEATER and VIOLET CROWN, Violet Crown has received a number of inquiries about the proposed amphitheater project from individuals who reasonably but incorrectly conclude that Violet Crown is the developer of the VIOLET CROWN AMPHITHEATER. Because of this actual confusion and its existing rights in the VIOLET CROWN marks, Violet Crown sent IDM a cease-and-desist letter on November 16, 2021. Although Violet Crown did receive a response to its cease-and-desist letter, the response was not substantive and merely acknowledged receipt of the letter. Violet Crown has received no substantive response to its demand that IDM cease any further use of the VIOLET CROWN marks in connection with its proposed amphitheater project. Accordingly, Violet Crown has been forced to file this lawsuit to protect its rights.

II. PARTIES

7. Plaintiff Violet Crown Cinemas, LLC is a Texas limited liability company with its principal place of business located at 1614 W. 5th Street, Austin, TX 78703.

8. International Development Management, LLC is a Delaware limited liability company doing business in Texas. IDM may be served with the summons and Complaint by

serving its registered agent for service of process, Oralie Everett, 1912 Melissa Oaks Lane, Austin, TX 78744.

III. JURISDICTION AND VENUE

9. This Court has subject matter jurisdiction under section 39 of the Lanham Act, 15 U.S.C. § 1121, and under 28 U.S.C. §§ 1331 and 1338. Subject matter jurisdiction over Violet Crown's related state and common law claims is proper pursuant to 28 U.S.C. §§ 1338 and 1367.

10. This Court has personal jurisdiction over IDM because, on information and belief, IDM has (1) contracted by mail or otherwise with a Texas resident and either party is to perform the contract in whole or in part in Texas; (2) committed a tort in whole or in part in Texas and/or (3) recruited Texas residents, directly or through an intermediary located in this Texas, for employment inside or outside Texas and is therefore doing business in Texas.

11. The Western District of Texas is a proper venue pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the acts or omissions giving rise to Violet Crown's claims occurred in this District.

IV. FACTS COMMON TO ALL CLAIMS FOR RELIEF

A. The VIOLET CROWN Mark.

12. More than a decade ago, Violet Crown opened its first theater in the heart of Downtown Austin. Since that time, Violet Crown Austin has become one of Austin's premiere entertainment venues. Violet Crown Austin is not just a theater, it's a part of the Austin community. Violet Crown seeks to provide spaces for public entertainment but also to support its neighbors in myriad ways. Violet Crown partners with local vendors whenever possible, and always looks to connect with community members.

13. Violet Crown follows this same community focused business model in its other theater locations. As a result, Violet Crown's exposure to the community runs much deeper than might be expected from other theater venues.

14. In addition to film exhibition, Violet Crown's theaters also offer live musical entertainment. Its theater facilities are also available for event rentals which are not limited to film exhibition. Similarly, Violet Crown offers restaurant, in-house catering and full bar services. This package of services makes Violet Crown a favorite entertainment destination.

15. Violet Crown is the owner of U.S. trademark registration nos. 5691295, 4979206 and 4795304 for VIOLET CROWN in connection with movie theaters, production and distribution of motion pictures and bar and restaurant services, respectively, and U.S. Registration No. 4367376 for VIOLET CROWN CINEMAS in connection with movie theaters.

16. The VIOLET CROWN Marks are well known in the markets where its theaters are located and consumers associate the Mark with the Plaintiff. Violet Crown has used the VIOLET CROWN marks for more than a decade in connection with its theater, bar and restaurant services. Violet Crown also uses the VIOLET CROWN Marks in its sponsorship of various community events.

17. Violet Crown has spent millions of dollars developing and promoting its theaters under the VIOLET CROWN Marks. As a result of its continuous and exclusive use of the VIOLET CROWN Marks in connection with its theater, bar and restaurant services, the mark enjoys wide public acceptance and association with Violet Crown, and has come to be recognized widely and favorably by the public as an indicator of the origin of Violet Crown's services.

18. As a result of Violet Crown's extensive use and promotion of the VIOLET CROWN Marks, Violet Crown has built up and now owns extremely valuable goodwill that is symbolized by the mark. The purchasing public has come to associate the VIOLET CROWN Marks with Violet Crown.

B. IDM's Unlawful Activity.

19. Beginning in October 2021, Violet Crown's management started receiving inquiries about a newly proposed VIOLET CROWN AMPHITHEATER from individuals who believed Violet Crown was the intended developer. As a result of those inquiries, Violet Crown learned that IDM is developing a 20,000 seat amphitheater in the greater Austin area which it is calling the VIOLET CROWN AMPHITHEATER. IDM is using the following logo on its website:



20. IDM's website, <http://violetcrownaustin.com>, promotes this new development as including:²

THE ULTIMATE OUTDOOR VENUE

The Violet Crown Amphitheater will have a capacity of 20,000 making it the largest music-specific room in the region. This ensures it will attract the largest popular touring acts.

The bandshell will be one of the largest in the United States. The stage is permanent and the largest in the region. The stage has been designed for efficient loading, show production, recording, and broadcast, with ample support areas for

² A copy of excerpts of the website is attached hereto as Exhibit E.

artists and crews alike. The orchestra and mezzanine sections are seated with alternating bands of Lueders limestone and natural grass. The upper lawn and mosh areas are flat and natural grass.

Concessions, merchandise, and sponsor areas have been located at the top of the bowl. VIP lounges and boxes are located on the second level above the concourse and in the bowl between the orchestra and mezzanine sections.

THE HIGH LIFE

The world's most beautiful and most advanced live music amphitheater is only the start. The Violet Crown also includes a 96-bay driving range with a top floor pool club, a distillery with tasting room, a danceclub beneath the amphitheater, a rooftop nightclub on the north tower, a rooftop pool club on the south tower, a traditional dancehall and full-service restaurant in the podium level of the towers; all set in the context of the natural beauty of the Texas Hill Country.

21. IDM has also started generating negative press. It faces backlash from environmental groups.³ “Powerful environmental groups are taking aim at the 71-acre Violet Crown project proposed near Bee Cave, saying it is ‘about the worst possible location to build a new Austin entertainment district’ because of its proximity to environmentally sensitive areas.” “Representatives from a number of groups — including the Nature Conservancy, Greater Edwards Aquifer Alliance, Sierra Club Austin, Save Our Springs and Save Barton Creek Association — have released statements opposing the project, with some saying they were ‘alarmed’ after reading about it in news reports. The biggest concerns are the project's proximity to both Barton Creek and the 4,000-acre Barton Creek Habitat Preserve, which is owned by the nonprofit Nature Conservancy, one of the world's largest environmental groups.”

22. In addition to the foregoing, it has been reported that IDM's founder, Chris Milam, pled guilty to charges of indecent exposure.

³ See *Environmental groups raise concerns about Violet Crown amphitheater project proposed west of Austin*, Austin Business Journal, November 5, 2021, attached hereto as Exhibit F.

23. On information and belief, IDM knowingly, willfully, intentionally, and maliciously adopted the VIOLET CROWN AMPHITHEATER mark which is confusingly similar to the VIOLET CROWN Marks.

**FIRST CLAIM FOR RELIEF
(Federal Trademark Infringement)**

24. Violet Crown repeats and incorporates by reference the allegations in the preceding paragraphs.

25. IDM's use of the confusingly similar VIOLET CROWN AMPHITHEATER is likely to cause confusion, deception, and mistake by creating the false and misleading impression that IDM's goods and services are manufactured, distributed or provided by Violet Crown, or are associated or connected with Violet Crown, or have the sponsorship, endorsement, or approval of Violet Crown.

26. IDM's infringing VIOLET CROWN AMPHITHEATER mark is confusingly similar to Violet Crown's federally registered marks in violation of 15 U.S.C. § 1114. IDM's activities are causing and, unless enjoined by this Court, will continue to cause a likelihood of confusion and deception of members of the trade and public, and, additionally, injury to Violet Crown's goodwill and reputation as symbolized by the VIOLET CROWN Marks, for which Violet Crown has no adequate remedy at law.

27. IDM's actions demonstrate an intentional, willful, and malicious intent to trade on the goodwill associated with Violet Crown's VIOLET CROWN Marks to Violet Crown's great and irreparable harm.

28. IDM caused and is likely to continue causing substantial injury to the public and to Violet Crown, and Violet Crown is entitled to injunctive relief and to recover IDM's profits,

actual damages, enhanced profits and damages, costs, and reasonable attorneys' fees under 15 U.S.C. §§ 1114, 1116, and 1117.

**SECOND CLAIM FOR RELIEF
(Federal Unfair Competition)**

29. Violet Crown repeats and incorporates by reference the allegations in the preceding paragraphs.

30. IDM's use of a confusingly similar imitation of the VIOLET CROWN Marks has caused and is likely to cause confusion, deception, and mistake by creating the false and misleading impression that IDM's goods are manufactured or distributed by Violet Crown, or are affiliated, connected, or associated with Violet Crown, or have the sponsorship, endorsement, or approval of Violet Crown.

31. IDM has made false representations, false descriptions, and false designations of, on, or in connection with its goods or services in violation of 15 U.S.C. § 1125(a). IDM's activities have caused and, unless enjoined by this Court, will continue to cause a likelihood of confusion and deception of members of the trade and public, and, additionally, injury to Violet Crown's goodwill and reputation as symbolized by Violet Crown's VIOLET CROWN Marks, for which Violet Crown has no adequate remedy at law.

32. IDM's actions demonstrate an intentional, willful, and malicious intent to trade on the goodwill associated with Violet Crown's VIOLET CROWN Marks to the great and irreparable injury of Violet Crown.

33. IDM's conduct has caused, and is likely to continue causing, substantial injury to the public and to Violet Crown. Violet Crown is entitled to injunctive relief and to recover IDM's profits, actual damages, enhanced profits and damages, costs, and reasonable attorneys' fees under 15 U.S.C. §§ 1125(a), 1116, and 1117.

THIRD CLAIM FOR RELIEF
(Federal Trademark Dilution of the VIOLET CROWN Mark)

34. Violet Crown repeats and incorporates by reference the allegations in the preceding paragraphs.

35. For more than a decade, Violet Crown has exclusively and continuously promoted and used the VIOLET CROWN Marks. The VIOLET CROWN Marks became a famous and well-known symbol of Violet Crown and Violet Crown's services well before IDM began using the infringing VIOLET CROWN AMPHITHEATER mark.

36. IDM is preparing to make use in commerce of the infringing VIOLET CROWN AMPHITHEATER mark, which is likely to dilute the distinctiveness of Violet Crown's VIOLET CROWN Marks by eroding the public's exclusive identification of this famous mark with Violet Crown, tarnishing and degrading the positive associations and prestigious connotations of the mark, and otherwise lessening the capacity of the mark to identify and distinguish Violet Crown's services.

37. IDM's actions demonstrate an intentional, willful, and malicious intent to trade on the goodwill associated with Violet Crown's VIOLET CROWN Marks or to cause dilution of the mark to the great and irreparable injury of Violet Crown. IDM has caused and will continue to cause irreparable injury to Violet Crown's goodwill and business reputations, and dilution of the distinctiveness and value of Violet Crown's famous and distinctive VIOLET CROWN Marks in violation of 15 U.S.C. § 1125(c). Violet Crown therefore is entitled to injunctive relief and to IDM's profits, actual damages, enhanced profits and damages, and reasonable attorneys' fees under 15 U.S.C. §§ 1125(c), 1116, and 1117.

FOURTH CLAIM FOR RELIEF
(Common Law Trademark Infringement and Unfair Competition)

38. Violet Crown repeats and incorporates by reference the allegations in the preceding paragraphs.

39. IDM's acts constitute common law trademark infringement and unfair competition, and have created and will continue to create, unless restrained by this Court, a likelihood of confusion to the irreparable injury of Violet Crown. Violet Crown has no adequate remedy at law for this injury.

40. On information and belief, IDM acted with full knowledge of Violet Crown's use of, and statutory and common law rights to, Violet Crown's VIOLET CROWN Marks and without regard to the likelihood of confusion of the public created by IDM's activities.

41. IDM's actions demonstrate an intentional, willful, and malicious intent to trade on the goodwill associated with Violet Crown's VIOLET CROWN Marks to the great and irreparable injury of Violet Crown.

42. As a result of IDM's acts, Violet Crown has been damaged in an amount not yet determined or ascertainable. At a minimum, however, Violet Crown is entitled to injunctive relief, damages, and costs. Further, in light of the deliberate and malicious use of a confusingly similar imitation of Violet Crown's VIOLET CROWN Marks, and the need to deter IDM from engaging in similar conduct in the future, Violet Crown additionally is entitled to punitive damages.

FIFTH CLAIM FOR RELIEF
(State Trademark Dilution and Injury to Business Reputation)

43. Violet Crown repeats and incorporates by reference the allegations in the preceding paragraphs.

44. Violet Crown has extensively and continuously promoted and used the VIOLET CROWN mark, and the VIOLET CROWN Marks became a distinctive, famous, and well-known symbol of Violet Crown's goods well before IDM began using the infringing VIOLET CROWN AMPHITHEATER mark.

45. IDM's conduct dilutes and is likely to dilute the distinctiveness of Violet Crown's VIOLET CROWN Marks by eroding the public's exclusive identification of this mark with Violet Crown, and tarnishing and degrading the positive associations and prestigious connotations of the mark, and otherwise lessening the capacity of the mark to identify and distinguish Violet Crown's goods.

46. Violet Crown, therefore, is entitled to injunctive relief, damages, and costs, as well as, punitive damages, and reasonable attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Violet Crown prays that:

1. IDM and all of its agents, officers, employees, representatives, successors, assigns, attorneys, and all other persons acting for, with, by, through or under authority from IDM, or in concert or participation with IDM, and each of them, be enjoined from:
 - a. using the infringing VIOLET CROWN AMPHITHEATER mark on or in connection with any of IDM's goods or services;
 - b. using the VIOLET CROWN Marks or any other copy, reproduction, colorable imitation, or simulation of Violet Crown's VIOLET CROWN Marks on or in connection with IDM's goods or services;
 - c. using any trademark, name, logo, design, or source designation of any kind on or in connection with IDM's goods or services that is a copy, reproduction, colorable

imitation, or simulation of, or confusingly similar to any of Violet Crown's trademarks, trade dresses, names, or logos;

d. using any trademark, name, logo, design, or source designation of any kind on or in connection with IDM's goods that is likely to cause confusion, mistake, deception, or public misunderstanding that such goods or services are produced or provided by Violet Crown, or are sponsored or authorized by Violet Crown, or are in any way connected or related to Violet Crown;

e. using any trademark, name, logo, design, or source designation of any kind on or in connection with IDM's goods or services that dilutes or is likely to dilute the distinctiveness of Violet Crown's trademarks, trade dresses, names, or logos; and

f. passing off, palming off, or assisting in passing off or palming off IDM's goods or services as those of Violet Crown, or otherwise continuing any and all acts of unfair competition as alleged in this Complaint.

2. IDM be required to pay to Violet Crown the costs and reasonable attorneys' fees incurred by Violet Crown in this action pursuant to 15 U.S.C. § 1117(a).

3. Based on IDM's willful and deliberate infringement and/or dilution of the Violet Crown's VIOLET CROWN Marks, and to deter such conduct in the future, Violet Crown be awarded punitive damages;

4. Violet Crown be awarded prejudgment and post-judgment interest on all monetary awards; and

5. Violet Crown be granted such other and further relief as the Court may deem just.

JURY TRIAL DEMAND

47. Violet Crown respectfully demands a trial by jury on all claims and issues so triable.

Respectfully Submitted,

By: /s/ Baxter W. Banowsky
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